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Co., L. R. 2 Exch. 441. This limitation seems extremely wise, whether liability in such cases is founded on the statute of Westminster, ii. c. 50, in which case it would logically follow, or, as seems more probable, is purely judge-made. It would be impolitic, and contrary to the guiding principle of torts to hold one who, without moral wrong, broke a statute, of the existence of which he may have been ignorant, liable for damages not intended to be guarded against by the statute, and perhaps not to have been foreseen as possible.

While most of the decisions accord with the principles here laid down, yet as the courts state no clear destruction between the two classes of cases, errors are likely to result. In the principal case, for example, the court supports its decision by citing cases where damage resulted from statutory torts. It is clear, however, that the statute here involved was not intended for the plaintiff's protection, and, therefore, that the plaintiff's recovery, which seems proper, must depend on the fact that the defendant was committing a morally criminal act, and could properly be held to act at his peril.

PURCHASER FOR VALUE, WITHOUT NOTICE, OF A POWER OF ATTORNEY. — The English court has recently decided that a *bona fide* purchaser for value of a power of attorney to convey property must hold such property, when conveyed, subject to equities of which he obtained notice subsequent to the purchase of the power, but prior to the actual conveyance. *London & County Banking Co. v. Nixon*, [1901] 2 Ch. 231. A trustee gave the plaintiff bank as security equitable mortgages on certain leaseholds, which, unknown to the bank he held in trust, and in addition a power of attorney to three of the bank's clerks to convey the titles to the leaseholds as the bank should direct. On hearing of the trust, the bank had the titles conveyed to itself. The court held that although the trustee's legal titles were thereby transferred to the bank, the latter must hold them subject to the equity. While these circumstances have not before come up for decision, the principle applicable to them seems similar to that involved where shares of stock held in trust are sold to a *bona fide* purchaser, together with a power of attorney to transfer the legal title on the company's books, or where similarly a simple chose in action is assigned by granting a power of attorney to sue. In all three cases the question is whether or not the power of attorney has conferred such legal rights that equity will not interfere. As regards the first of these cases the English court in 1865 held that, as the grantee of the power could obtain title by his own act, he took free of equities, a decision which has since been neither expressly affirmed nor overruled. *Dodds v. Hills*, 2 H. & M. 424. As regards the second class of cases, where choses in action have been assigned, in England the assignee has been held to take subject to equities. *Brandon v. Brandon*, 7 D. M. & G. 365. In America the conflict of authority is irreconcilable. *Downer v. South Royalton Bank*, 39 Vt. 25; *Himrod v. Gilman*, 147 Ill. 293. No conclusive reasons, however, have been advanced for either view.

It has been generally admitted that, while, on the one hand, equity will not enforce, as against prior equities, any equitable rights which a *bona fide* purchaser for value may acquire, yet, on the other hand, it will not deprive such a purchaser of any legal rights he may obtain. The question at issue in these cases, then, seems to depend on the exact

nature of the right conferred by a power of attorney. It has been argued that the power to sue or to transfer title is a legal right, distinct from the ownership of the chose in action or the title, and that, as this right may be transferred at pleasure, its purchaser should be allowed to use it, and acquire rights under it, just as a *bona fide* purchaser of a legal title is absolutely entitled to the free use of his property. 1 HARVARD LAW REVIEW, 6, 7.

This view is clearly correct in regarding the power of attorney as conferring a legal right, for it is a right recognized at law, and protected in equity only to the same extent as other legal rights. However, the extent of the right seems to be misconceived. The legal rights to bring suit or to transfer title are not severable from the ownership of the chose in action, or the title, nor can they be created in others by the owners of such property. They appear to be merely necessary legal incidents dependent on such ownership, and the grant of a power of an attorney effects, not a grant of them, but merely the grant of a legal right to represent the owner in using them. This right originated in the old law courts, where it was found that a suitor, through absence or ignorance, often needed some one to represent him. The method was suggested by the king's manner of doing business, which he was himself unable to perform. Pollock & Maitland's History Eng. Law, 2d ed. ii. 227. But this legal power to represent another, which became greatly extended in scope, and was made irrevocable under certain circumstances, was always a mere power to take the grantor's place to a limited extent, subject of course to all incident obligations, legal and equitable. If the above be a correct analysis, the court of equity, without interfering in the least with the legal right conferred on the grantee of a power of attorney to represent his grantor, may hold such grantee subject to equities existing against his grantor. The decision in the principal case is then right, and similar results should be reached in the other cases mentioned. Business usage pleads strongly for a different result, and the consequent right to assign choses in action more freely, but the recognition of a greater power conferred by the power of attorney than the right to represent would be too serious a violation of principle for the courts to adopt without legislative authority.

THE RIGHT TO PRIVACY. — There has existed no explicit authority for the right to privacy since the final decision in *Schuyler v. Curtis*, 147 N. Y. 434. That decision, it is true, was rested on grounds which did not affect the main question, but other recent authorities have denied the existence of any such right. 13 HARV. LAW REV. 415. It is, therefore, interesting to find the appellate division of the New York Supreme Court unequivocally affirming its former doctrine in a case not complicated by any possible breach of contract or confidence. The plaintiff, a young woman, asked for damages and for an injunction against the unauthorized use of her portrait by the defendant in advertising its business. A demurrer to her complaint was overruled. *Roberson v. Rochester Folding Box Co.*, 64 App. Div. 30.

The court rejects the principle that equity interferes only to protect property rights, and cites the cases of dead bodies. These cases would seem to be amply sufficient to dispose of the objection since, it is ad-